

Montana Section 1115 Waiver for Additional Services and Populations (WASP) Demonstration
Waiver
January 2024 Fertility Preservation Amendment Submission
Effective Date: January 1, 2024

FULL PUBLIC NOTICE

Pursuant to 42 C.F.R. Section 431.408, public notice is hereby given to the submission of a Medicaid proposed demonstration amendment request of the Montana Waiver for Additional Services and Populations (WASP), effective January 1, 2024.

PUBLIC COMMENT PERIOD
August 19, 2023 – October 17, 2023

Location and Internet Address of
Demonstration Application for Public Comment and Review

Documents are available for public review on the Fertility Preservation Amendment webpage: <https://dphhs.mt.gov/MontanaHealthcarePrograms/Medicaid/Medicaid1115Waiver/WaspAmendment>.

One hybrid public hearing will be held regarding the demonstration application on Friday, September 15, 2023, from 1:00 p.m. to 3:00 p.m. Mountain Time.

To attend in-person, please come to 111 North Sanders Street, Room 107.

To attend via Zoom, you can register for the public hearing at <https://dphhs.mt.gov/MontanaHealthcarePrograms/Medicaid/Medicaid1115Waiver/WaspAmendment>. After registering, you will receive a confirmation email containing information about joining the meeting. If special accommodations are needed, contact Mary Eve Kulawik at (406) 444-2584 or mkulawik@mt.gov.

- Public Input and Comments are welcome from August 19, 2023, through October 17, 2023. Comments and questions may be directed to the following:
 - By US Mail:
Medicaid WASP Waiver Amendment
Department of Public Health and Human Services, Director's Office
111 North Sanders Street
PO Box 4210
Helena, MT 59604-4210
c/o Mary Eve Kulawik
 - By telephone: (406) 444-2584
 - By electronic mail: dphhscomments@mt.gov; and
 - You will also have opportunity to officially comment during the federal public comment period after CMS finds the application and public notice requirements met. The location to make these comments can be found online at the CMS website: <https://www.medicaid.gov/medicaid/section->

[1115demo/demonstration-and-waiver-list/index.html](https://www.medicare.gov/medicaid/section-1115demo/demonstration-and-waiver-list/index.html).

Public Notice and Public Input Process

On or before August 19, 2023, Montana will publish, in the state's three largest newspapers, the *Billings Gazette*, the *Helena Independent Record*, and the *Missoulian*, an announcement of the Montana Department of Public Health Human Services (DPHHS) planned submission of an amendment adding Fertility Preservation services to the Section 1115 WASP Medicaid Waiver for approval to the Centers for Medicare and Medicaid Services (CMS).

This announcement summarizes the proposed demonstration waiver amendment and extends an invitation for the public to review pertinent information posted on the Department website at <https://dphhs.mt.gov/MontanaHealthcarePrograms/Medicaid/Medicaid1115Waiver/WaspAmendment>. The announcement further invites public comment, between August 19, 2023, and October 17, 2023, via the contact information listed. Also on or before August 19, 2023, Montana will post an announcement of the Montana Section 1115 WASP January 2024 Amendment Submission to the Montana DPHHS Medicaid and CHIP State Plan Amendment and Waiver Public Notice page at: <https://dphhs.mt.gov/montanahealthcareprograms/medicaidstateplanamendmentpublicnotices>.

This announcement will link directly to the specific WASP webpage <https://dphhs.mt.gov/MontanaHealthcarePrograms/Medicaid/Medicaid1115Waiver/WaspAmendment> where copies of the public notice documents will be available for review. In addition to these public notifications, Montana will also notify the public of the planned submission and location to find more information by sending memos to Montanan's Medicaid medical advisory committee (Montana Health Coalition), Mental Health Savings Plan (MHSP) stakeholders, the Children and Families Health and Human Services Interim Committee and posting the information on the state's e-calendar, all on or before the first day of the public notice period.

At the end of the public input period, Montana will post a summary of comments received and actions taken because of those comments. If the comments received stimulate a change to the Amendment Application, Montana will post the Preliminary Amendment Application, including Budget Neutrality projections, with redline changes, and then also post the finalized version of the amendment application.

You will also have opportunity to officially comment during the federal public comment period after CMS finds the application and public notice requirements met. The location to make these comments can be found on-line at the CMS website: <https://www.medicare.gov/medicaid/section-1115demo/demonstration-and-waiver-list/index.html>.

Summary of Proposed Changes

During the 2023 Montana Legislative Session, Senate Bill 516 to "Provide for the preserving Fertility Act," was passed and signed into law by Governor Gianforte (<https://dphhs.mt.gov/MontanaHealthcarePrograms/Medicaid/Medicaid1115Waiver/WaspAmendment>). This legislation requires the Montana Department of Public Health and Human Services (DPHHS) to add Medicaid and the Children's Health Insurance Program (CHIP), also known in Montana as Healthy Montana Kids (HMK), coverage for fertility preservation services for aged-eligible individuals diagnosed with cancer and the standard of care involves medical treatment that may directly or indirectly cause iatrogenic infertility.

In light of the statutory directive, Montana DPHHS seeks approval from the CMS to amend the Section 1115 Montana WASP to add fertility preservation services for age eligible Medicaid and CHIP/HMK enrolled members diagnosed with cancer effective January 1, 2024.

Goals and Objectives

Under Section 1115 of the Social Security Act, States may implement “experimental, pilot or demonstration projects which, in the judgment of the Secretary [of Health and Human Services] is likely to assist in promoting the objectives of [Medicaid]”. The State believes this demonstration is likely to promote the objectives of Medicaid by improving participant health outcomes and quality of life. Providing these services will make it possible for Medicaid and CHIP/HMK eligible individuals who have been diagnosed with a form of cancer, and whose related treatment may cause a substantial risk of sterility or iatrogenic infertility (including surgery, radiation, or chemotherapy) to receive coverage for fertility preservation services.

Expenditure Authorities

Montana is requesting expenditure authority under Section 1115 to provide fertility preservation services for Medicaid and CHIP/HMK eligible individuals between the age of 12 and 35 with an active diagnosis of cancer where the treatment would put them at risk for infertility. The requested expenditure authority promotes the objectives of Title XIX by improving health outcomes for Medicaid and CHIP/HMK populations.

This amendment request does not propose any additional waiver and expenditure authority changes to the WASP Demonstration Program beyond what is in the extension/renewal for the Section 1115 WASP approved on November 21, 2022.

Montana intends to continue to provide standard Medicaid benefits for up to 3,000 WMHSP individuals including 12 months continuous coverage. Additionally, the WASP will continue to cover individuals determined categorically eligible for ABD for dental treatment services above the Medicaid State Plan cap of \$1,125.

Waiver Authorities

As directed by statute, DPHHS is seeking the addition of fertility preservation expenditure authority from its 1115 WASP approved on November 21, 2022, for age-eligible Medicaid and CHIP/HMK members diagnosed with cancer and the standard of care involves medical treatment that may directly or indirectly cause iatrogenic infertility.

The State requests the following proposed waiver and expenditure authority to operate the fertility preservation services under the WASP 1115 demonstration.

| Waiver and Expenditure Authority | Reason and Use of Waiver |
|---|---|
| Section 1902(a)(10)(B)- Amount, Duration, and Scope of Services and Comparability | To enable the State to vary the amount, duration, and scope of services provided to individuals in the demonstration group. |

Eligibility

Fertility preservation services included under this Demonstration are available to Medicaid and CHIP/HMK eligible individuals who are:

- diagnosed by a physician as having an active cancer diagnosis requiring treatment that may cause a substantial risk of sterility or iatrogenic infertility (infertility caused by cancer treatment); and
- between the ages of 12 and 35.

Medicaid and CHIP/HMK members will qualify for fertility preservation services outlined in this Demonstration based upon their medical need for services. Eligibility requirements will not differ from the approved Medicaid and CHIP State Plans, Alternative Benefit Plan and the WMHSP population receiving standard Medicaid through this 1115 waiver Demonstration. DPHHS is not proposing changes to Medicaid or CHIP/HMK eligibility standards in this Demonstration application.

The eligibility groups outlined in the table below will not be eligible for fertility preservation services as they receive limited Medicaid benefits only.

| Eligibility Group Name | Social Security Act and CFR Citations |
|---|---------------------------------------|
| Qualified Medicare Beneficiaries (QMB) | 1902(a)(10)(E)(i) 1905(p) |
| Specified Low Income Medicare Beneficiaries (SLMB) | 1902(a)(10)(E)(iii) |
| Qualified Individual (QI) Program | 1902(a)(19)(E)(iv) |
| Family Planning – Authorized through Montana’s Plan First §1115 Family Planning Demonstration | 1902(a)(10)(A)(ii)(XXI) |

Projected Enrollment

The State is not proposing any changes to Medicaid eligibility requirements in the Section 1115 Demonstration change request. As such, the Demonstration is not expected to affect enrollment trends, which will continue to be determined largely by demographic changes and economic conditions. The projected enrollment for the demonstration population is approximately 35-40 Medicaid and 1-5 CHIP/HMK members per year will utilize the fertility preservation benefit. Members are limited to one benefit per lifetime.

Benefits

If approved under this demonstration, qualified Medicaid and CHIP/HMK members will be eligible to receive the following services:

- Collection of eggs and sperm consistent with established medical practices or professional guidelines published by the American Society of Reproductive Medicine or the American Society of Clinical Oncology.

Under this amendment application, Montana intends to continue the following current Demonstration features including:

- Coverage of the Standard Medicaid benefits package for WMHSP.
 - Covered individuals age 18 or older with SDMI who are otherwise ineligible for Medicaid benefits and either:
 - Have income 0-138% of the FPL and are eligible for or enrolled in Medicare; or
 - Have income 139-150% of the FPL regardless of Medicare status.
 - 12-month continuous coverage for the WMHSP population.
- Dental treatment services above the dental treatment services annual cap outlined in the Medicaid State Plan for the ABD population. (Covered dental treatment services, excluding diagnostic, preventive, denture and anesthesia services for adults age 21 and over, are subject to the annual cap of \$1,125 in the State Plan.)

Cost Sharing

If approved under this demonstration, cost sharing/copayment requirements for Medicaid fertility preservation services will not differ from those provided under the Medicaid State Plan. Montana does not require cost sharing or copayments for any Medicaid covered service. Individuals enrolled in CHIP/HMK will be assessed copayments for fertility preservation services in line with the current approved CHIP/HMK state plan. Fertility preservation services are subject to annual deductibles and copayment provisions as applicable to hospital, medical, or surgical services covered under the state plan.

Delivery System

The State does not propose any changes to the Medicaid health care delivery system. The new fertility preservation services for the demonstration individuals will be provided through the current fee for service (FFS) reimbursement system. All enrollees will continue to receive services through their current delivery system in the same manner under the state's current state plan.

The State does not propose any changes to the CHIP/HMK health care delivery system. Fertility preservation services will be provided through the current Third Party Administrator (TPA) fee for service contract. All enrollees will continue to receive services through their current delivery system in the same manner under the state's current state plan.

Budget/Allotment Neutrality

Enrollment Projections and Annual Expenditures

Montana developed projections for the demonstration period based on state historical expenditures, as available, as well as anticipated cost and utilization trends. Below is the projected enrollment and expenditures for the remaining demonstration years:

| | DY21 (2024) | DY22 (2025) | DY23 (2026) | DY24 (2027) |
|------------------------|-------------|-------------|-------------|-------------|
| Medicaid Enrollment | 15 | 15 | 16 | 16 |
| Medicaid Expenditures | 121,838 | 125,493 | 137,875 | 142,012 |
| Expansion Enrollment | 21 | 21 | 22 | 23 |
| Expansion Expenditures | 170,574 | 175,691 | 189,579 | 204,142 |
| CHIP Enrollment | 1 | 1 | 1 | 1 |
| CHIP Expenditures | 8,123 | 8,366 | 8,617 | 8,876 |

The projected fertility preservation enrollment and expenditures results in an estimated fiscal impact of \$1,301,185 for the remaining 4 demonstrations years.

Evaluation

The State will develop a plan for evaluating the hypothesis indicated below. Montana will identify validated performance measures that adequately assess the impact of these demonstrations to beneficiaries. The State will submit the revised evaluation design to CMS for approval. The State will conduct ongoing monitoring of this demonstration, and will provide information regarding monitoring activities in the required monitoring reports. The following hypothesis will be tested during the approval period.

| Hypothesis | Anticipated Measure(s) | Data Sources | Evaluation Approach |
|---|---|---------------------|--|
| This demonstration will allow individuals who are at risk for infertility due to cancer treatment to preserve their ability to have children in the future. | Number of individuals served under this demonstration | MMIS Data Warehouse | Montana will design quantitative and qualitative measures to include quasi-experimental comparisons. |